

IN THE CIRCUIT COURT OF MARSHALL COUNTY, MISSISSIPPI

MATTHEW BROWNFIELD

PLAINTIFF

VS.

CIVIL ACTION NO: CV2022-078

JOHN LUTZOW, BUDGET TRUCK RENTAL, LLC, and
MOUNTAIN LAUREL ASSURANCE COMPANY

DEFENDANTS

JURY TRIAL DEMANDED

COMPLAINT

COMES NOW your Plaintiff, by and through his attorney of record, and files this Complaint against the above-named Defendants and for cause would state the following, to-wit:

PARTIES

1. Plaintiff, Matthew Brownfield, is an adult citizen of Arlington, Shelby County, Tennessee.
2. Upon information and belief, Plaintiff alleges that Defendant, John Lutzow, is an adult resident citizen of Omaha, Douglas County, Nebraska.
3. Upon information and belief, Plaintiff alleges that Defendant, Budget Truck Rental, LLC, is a Delaware corporation with a principal place of business in Parsippany, New York. Defendant, Budget Truck Rental, LLC, is amenable to service of process through its designated registered agent, Corporation Service Company at 7716 Old Canton Road, Suite C, Madison, Mississippi.
4. Plaintiff alleges that Defendant, Mountain Laurel Assurance Company, had a contract of Vehicle Insurance with a provision for Uninsured/Underinsured Motorist Benefits with Plaintiff on or about November 6, 2020.

FILED

MAR 17 2022

MONET AUTRY
CIRCUIT CLERK MARSHALL CO., MS
BY PCT D.C.

A

JURISDICTION AND VENUE

5. Plaintiff further alleges that this cause of action arises in tort out of personal injuries and damages incurred as a result of a motor vehicle collision which occurred in Marshall County, Mississippi, on or about November 6, 2020. Jurisdiction and venue are proper with this court.

FACTS

6. Plaintiff adopts, and re-alleges, the allegations contained in Paragraphs One through Five (1-5) above as if fully set forth herein.

7. Upon information and belief, Plaintiff alleges that on or about November 6, 2020, at approximately 4:46 p.m., Defendant, John Lutzow, was operating a 2018 International box truck, owned by Defendant, Budget Truck Rental, LLC and bearing Oklahoma license tag number 3AL643, in the left northbound lane of the U.S. Interstate 269 North on-ramp in Marshall County, Mississippi.

8. Upon information and belief, Plaintiff alleges that Defendant, John Lutzow, was towing a loaded trailer, owned by Defendant, Budget Truck Rental, LLC, and bearing Oklahoma license plate number 2262JJ, behind the 2018 International box truck.

9. Upon information and belief, Plaintiff alleges that the trailer hitch or coupling of the loaded trailer was not properly secured to the 2018 International box truck.

10. Upon information and belief, Plaintiff alleges that the loaded trailer was not secured to the 2018 International box truck with safety chains, safety cables, or an equivalent device in addition to the regular trailer hitch or coupling.

11. Upon information and belief, Plaintiff alleges that the loaded trailer was not equipped with safety chains, safety cables, or an equivalent device, in addition to the regular trailer hitch or coupling.

12. Plaintiff alleges that at the same time and at the same location he was operating a

2005 Harley Davidson motorcycle in the right northbound lane of the U.S. Interstate 269 North on-ramp in Marshall County, Mississippi.

13. Plaintiff alleges that suddenly and without warning the loaded trailer decoupled from the 2018 International box truck and, with no safety chains or cables attaching it to the 2018 International box truck, drifted freely from the left northbound lane into the right northbound lane of the U.S. Interstate 269 North on-ramp and collided with Plaintiff's motorcycle.

14. Plaintiff further alleges that the impact between the trailer and Plaintiff's motorcycle resulted in injuries and damages as a direct result of Defendants' negligence, herein described.

COUNT I

NEGLIGENT ACTS AND/OR OMISSIONS OF DEFENDANT JOHN LUTZOW

15. Plaintiff charges and alleges that Defendant, John Lutzow, is guilty of one, some, or all of the following acts and/or omissions of common law negligence, to-wit:

- (a) Negligently failing to use the degree of care and caution in the operation of the vehicle and trailer as was required of a reasonable and prudent person under the same or similar circumstances existing at the time and place of the aforementioned collision;
- (b) Negligently failing to properly secure the trailer to the 2018 International box truck;
- (c) Negligently failing to inspect the coupling of the trailer to the 2018 International box truck;
- (d) Negligently failing to devote full time and attention to the operation of the vehicle and trailer;
- (e) Negligently failing to adequately and reasonably monitor the flow of traffic;
- (f) Negligently failing to use reasonable care to avoid injury to others while operating a motor vehicle;
- (g) Negligently failing to warn the plaintiff; and
- (h) Other acts of negligence to be shown at a hearing of this cause.

14. Plaintiff charges and alleges that at the time of the wreck in question, the following statutes of the Mississippi Code Annotated were in full force and effect and were violated by Defendant, John Lutzow, constituting negligence *per se*, to-wit:

Section 63-3-201

Offenses and penalties generally:

It is unlawful and, unless otherwise declared in this title with respect to particular offenses, it is a misdemeanor for any person to do any act forbidden by this chapter or to fail to perform any act required in this chapter.

Section 63-3-1201

Reckless driving:

Any person who drives any vehicle in such a manner as to indicate either a willful or a wanton disregard for the safety of persons or property is guilty of reckless driving. Reckless driving shall be considered a greater offense than careless driving.

Section 63-3-1213

Careless or imprudent driving:

Any person who drives any vehicle in a careless or imprudent manner, without due regard for the width, grade, curves, corner, traffic and use of the streets and highways and all other attendant circumstances is guilty of careless driving. Careless driving shall be considered a lesser offense than reckless driving.

Section 63-5-25

Connections for trailers and towed vehicles:

(1) Every trailer which shall be towed on the public highways at a speed in excess of twenty (20) miles per hour shall be coupled to the towing vehicle by means of a safety chain, chains, cables, or equivalent devices in addition to the regular trailer hitch or coupling. This requirement does not apply to a semitrailer having a connecting device composed of a fifth wheel and kingpin assembly meeting the requirements of the Interstate Commerce Commission, nor to a pole, pipe, casing, long or piling dolly. No more slack shall be left in any such safety chains, cables or equivalent devices than shall be necessary to permit proper turning. The safety chains, cables or equivalent device shall be so connected to the towed and towing vehicles and to the drawbar to prevent the drawbar from dropping to the ground if the drawbar fails, and shall be of sufficient strength to control the trailer in event of failure of the regular trailer hitch or coupling.

15. Plaintiff charges and alleges that one, some, or all aforesaid acts of common law negligence and violations of the Mississippi Code Annotated by Defendant, John Lutzow, were

the direct and proximate cause of the collision at issue and Plaintiff's resulting injuries and damages to be hereinafter set out with more particularity.

COUNT II

**NEGLIGENT ACTS AND/OR OMISSIONS OF
DEFENDANT BUDGET TRUCK RENTAL, LLC**

16. Plaintiff charges and alleges that Defendant, Budget Truck Rental, LLC, is guilty of one, some, or all of the following acts and/or omissions of common law negligence, to-wit:

- (a) Negligently failing to use the degree of care and caution that was required of a reasonable and prudent rental car company under the same or similar circumstances existing at the time and place of the aforementioned collision;
- (b) Negligently failing to properly secure the trailer to the 2018 International box truck;
- (c) Negligently failing to inspect the coupling of the trailer to the 2018 International box truck;
- (d) Negligently failing to ensure that the trailer was equipped with safety chains, safety cables, or an equivalent device, in addition to the regular hitch or coupling; and
- (e) Other acts of negligence to be shown at a hearing of this cause.

17. Plaintiff charges and alleges that at the time of the wreck in question, the following statutes of the Mississippi Code Annotated were in full force and effect and were violated by Defendant Budget Truck Rental, LLC, constituting negligence *per se*, to-wit:

Section 63-3-201

Offenses and penalties generally:

It is unlawful and, unless otherwise declared in this title with respect to particular offenses, it is a misdemeanor for any person to do any act forbidden by this chapter or to fail to perform any act required in this chapter.

Section 63-5-25

Connections for trailers and towed vehicles:

(1) Every trailer which shall be towed on the public highways at a speed in excess of twenty (20) miles per hour shall be coupled to the towing vehicle by means of a safety chain, chains, cables, or equivalent devices in addition to the regular trailer hitch or coupling. This requirement does not apply to a semitrailer having a connecting device composed of a fifth wheel and kingpin assembly meeting the requirements of the Interstate

Commerce Commission, nor to a pole, pipe, casing, long or piling dolly. No more slack shall be left in any such safety chains, cables or equivalent devices than shall be necessary to permit proper turning. The safety chains, cables or equivalent device shall be so connected to the towed and towing vehicles and to the drawbar to prevent the drawbar from dropping to the ground if the drawbar fails, and shall be of sufficient strength to control the trailer in event of failure of the regular trailer hitch or coupling.

18. Plaintiff charges and alleges that one, some, or all aforesaid acts of common law negligence and violations of the Mississippi Code Annotated by Defendant, Budget Truck Rental, LLC, were the direct and proximate cause of the collision at issue and Plaintiff's resulting injuries and damages to be hereinafter set out with more particularity.

COUNT III

RES IPSA LOQUITUR

19. Plaintiff charges and alleges that the 2018 International box truck and attached trailer in question were under the exclusive care, control, and management of Defendant, John Lutzow, and Defendant, Budget Truck Rental, LLC, immediately before and at the time that the loaded trailer decoupled from the 2018 International box truck.

20. Plaintiff charges and alleges that in the ordinary course of events, a trailer does not decouple from a box truck while in use on the roadway. Because Defendants, John Lutzow and Defendant, Budget Truck Rental, LLC, failed to use reasonably proper care in the inspection and maintenance of the trailer that was pulled by the 2018 International box truck, injuries and damages were sustained by Plaintiff. By virtue of the facts and circumstance of the collision, the doctrine of *res ipsa loquitur* is applicable to the cause of action against Defendants, John Lutzow and Defendant, Budget Truck Rental, LLC.

21. Plaintiff alleges that the injuries and damages that Plaintiff's sustained was not the result of any voluntary act by Plaintiff.

COUNT IV

UNINSURED/UNDERINSURED MOTORIST COVERAGE

22. Defendant, Mountain Laurel Assurance Company, is being named as a party to this lawsuit as the Uninsured/Underinsured Motorist Carrier of Plaintiff.

23. At the time and place described above, Plaintiff was insured under a policy of insurance issued by Mountain Laurel Assurance Company pursuant to the laws of the State of Tennessee.

24. Said insurance policy contained uninsured/underinsured motorist coverage applicable to Plaintiff herein.

25. Mountain Laurel Assurance Company is liable to Plaintiff for the negligence of Defendant, John Lutzow, and Defendant, Budget Truck Rental, LLC, and the resulting injuries and damages as aforesaid, pursuant to the terms, conditions, and applicable coverages provided to Plaintiff under the relevant automobile insurance policy.

INJURIES AND DAMAGES

26. Plaintiff, Matthew Brownfield, alleges that as a direct and proximate result of the hereinabove described violations of the common law and state statutes by Defendants, he sustained multiple, serious, and disabling injuries to her body as a whole, including, but not limited to bilateral rotator cuff tears that required multiple surgeries.

27. Plaintiff, Matthew Brownfield, alleges that as a direct and proximate result of the hereinabove described negligence of Defendants, he has sustained temporary and permanent disability.

28. Plaintiff, Matthew Brownfield, further alleges that he has endured pain and suffering and may continue to suffer from the injuries arising out of the subject incident.

29. Plaintiff, Matthew Brownfield, alleges that he has incurred reasonable and

necessary medical, hospital, pharmacy, and related expenses in order to alleviate his pain and suffering and verily believes that she will incur said expenses in the future.

30. Plaintiff, Matthew Brownfield, further alleges that he has sustained a loss of quality and enjoyment of the normal pleasures of life as a result of the subject incident, past, present, and future.

31. Plaintiff, Matthew Brownfield, further alleges that he has sustained mental anguish as a result of the subject incident.

32. Plaintiff, Matthew Brownfield, further alleges that he has sustained a loss of earnings and/or loss of earning capacity and verily believes that said losses will be incurred in the future. Plaintiff, Matthew Brownfield, sues for any and all loss of earnings and/or earning capacity, past, present, and future.

33. Plaintiff, Matthew Brownfield, further alleges that he has sustained property damage and loss of use damages to his 2005 Harley Davidson motorcycle.

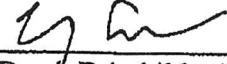
RELIEF

WHEREFORE, PREMISES CONSIDERED, Plaintiff, Matthew Brownfield, respectfully sues Defendants, John Lutzow, Budget Truck Rental, LLC, and Mountain Laurel Assurance Company, for a reasonable amount of restitution and compensation for damages to be determined by twelve Honorable and good citizens of Marshall County but not to exceed the sum of **TWO MILLION DOLLARS AND 00/100 (\$2,000,000.00).**

WHEREFORE, PREMISES CONSIDERED, Plaintiff respectfully prays for damages as they may appear on the trial of this cause reserving the right to amend this pleading to conform to the facts as they may develop, for cost and interest, and for all other general relief justified by the facts under the law or equity.

Respectfully submitted,

NAHON SAHAROVICH & TROTZ, PLC



Derek Fairchild, #104730
Adam Johnson, #103057
Attorney for Plaintiff
488 South Mendenhall
Memphis, Tennessee 38117
Phone: (901) 259-0415
Fax: (901) 746-1543